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7 BEFORE THE
8 PHYSICIAN'S ASSISTANT EXAMINING COMMITTEE
9 DIVISION OF ALLIED HEALTH PROFESSIONS
10 BOARD OF MEDICAL QUALITY ASSURANCE
11 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation
13 Against:

NO. D-3151

14 BENJAMIN FRANKLIN HENDERSON
18846 Renault Street
15 La Puente, California
Certificate Number
16 PA-010100,

DEFAULT DECISION

17 Respondent.

18 On January 9, 1984, Accusation No. D-3151 entitled
19 Accusation Against Benjamin Franklin Henderson was filed before
20 the Physician's Assistant Examining Committee of the Division
21 of Allied Health Professions of the Board of Medical Quality
22 Assurance (hereinafter referred to as "committee") against
23 license number PA-010100, heretofore issued to Benjamin Franklin
24 Henderson (hereinafter referred to as "respondent").
25 On January 9, 1984, the accusation was served by
26 certified mail on respondent at his address of record in accordance
27 with the provisions of section 11505 of the Government Code of

1 the State of California. On January 21, 1984, the said accusa-
2 tion was delivered to the address of record of respondent and a
3 return receipt was filed with the Division of Allied Health
4 Professions (hereinafter referred to as "division").

5 Though served with the said accusation, respondent has
6 failed to file a notice of defense as required by section 11506(a)
7 of the Government Code and has failed to otherwise request a
8 hearing on the allegations of said accusation. Accordingly, the
9 division has determined that respondent has waived his rights to
10 a hearing as provided by section 11506(b) of the Government Code
11 and is in default in this action.

12 Based on respondent's waiver of his right to a hearing
13 in this matter, the division will take action on Accusation No.
14 D-3151 without a hearing in accordance with the provisions of
15 sections 11505(a) and 11520 of the Government Code and makes the
16 following findings of fact and determination of issues:

17 FINDINGS OF FACT

18 The allegations set forth in Accusation No. D-3151
19 heretofore filed against respondent by Ray E. Dale, Executive
20 Officer of the committee on January 9, 1984, are hereby found to
21 be true. Said accusation is on file with the division and the
22 facts and allegations contained therein are incorporated herein
23 by reference as set forth in full. A copy of the accusation is
24 attached hereto as Exhibit A.

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1 DETERMINATION OF ISSUES

2 Based upon the findings of fact stated above, respondent has
3 committed acts constituting unprofessional conduct within the meaning of
4 Business and Professions Code sections 3527 (a), 490, 2236, 2030 and 3531,
5 thereby permitting the division to take disciplinary action.

6 ORDER

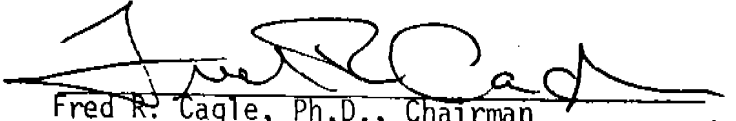
7 WHEREFORE, for the aforesaid causes, the following order is made:

8 Physician's Assistant Certificate No. PA-010100 heretofore issued
9 to Benjamin Franklin Henderson is hereby REVOKED. Respondent shall not be
10 deprived of making any further showing by way of mitigation; however, such
11 showing shall be made through the Physician's Assistant Examining Committee,
12 1430 Howe Avenue, Sacramento, California 95825, prior to the effective date
13 of this decision.

14 Respondent is advised by attachments hereto of the provisions of
15 section 11522 of the Government Code and section 604 of Chapter 7 of Title 16
16 of the California Administrative Code.

17 This decision shall be effective on November 1st of 1984.

18 DATED: October 2, 1984

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22 Fred R. Cagle, Ph.D., Chairman
23 Physician's Assistant Examining Committee
24 Board of Medical Quality Assurance
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12 In the Matter of the Accusation
Against:

) No. D-3151

13 BENJAMIN FRANKLIN HENDERSON
14 18846 Renault Street
15 La Puente, California
16 Physician's Assistant
Certificate Number
PA-010100,

) ACCUSATION

17 Respondent.)

18
19 Complainant, Ray E. Dale, as cause for disciplinary
20 action, alleges as follows:

21 1. He is the Executive Officer of the Physician's
22 Assistant Examining Committee, Division of Allied Health
23 Professions, Board of Medical Quality Assurance (hereinafter
24 referred to as "committee") and makes this accusation solely in
25 his official capacity.

26 2. On or about April 20, 1977, Benjamin Franklin
27 Henderson (hereinafter referred to as "respondent") was issued

1 physician's assistant certificate number PA-010100 by the
2 committee. At the time of the acts mentioned herein, said
3 license was in full force and effect but expired on or about
4 June 1, 1982.

5 3. Section 118, subdivision (b), of the Business and
6 Professions Code provides that the expiration or suspension of a
7 physician's assistant certificate by operation of law, order of
8 the Board of Medical Quality Assurance (hereinafter referred to
9 as "board") or by order of the court of law shall not, during
10 any period in which it may be renewed, restored, reissued or
11 reinstated, deprive the committee of its authority to institute
12 disciplinary action.

13 4. Section 3527, subdivision (a), of the Business and
14 Professions Code provides, in pertinent part, that the committee
15 may order a suspension or revocation of, or the imposition of
16 probationary conditions upon a physician's assistant certificate
17 after a hearing for unprofessional conduct which includes, but is
18 not limited to, a violation of the Physician's Assistant Practice
19 Act, a violation of the State Medical Practice Act, or a
20 violation of the regulations adopted by the committee or the
21 board.

22 5. Sections 490 and 2236 in conjunction with
23 sections 3527, subdivision (a), and 3531 of the code provide that
24 the conviction of any offense which is substantially related
25 to the qualifications, functions, or duties of a physician's
26 assistant constitutes unprofessional conduct and is a ground for
27 suspension or revocation of the certificate.

1 6. Section 2242, subdivision (a), of the code provides
2 that prescribing, dispensing, or furnishing dangerous drugs as
3 defined in section 4211 without a good faith examination or
4 medical indication therefor, constitutes unprofessional conduct.

5 7. Section 2052 of the code provides that any person
6 who practices or who attempts to practice, or who advertises or
7 holds himself or herself out as practicing, a system or mode of
8 treating the sick or afflicted in this state, or who diagnoses,
9 treats, operates for, or prescribes for, any ailment, blemish,
10 deformity, disease, disfigurement, disorder, injury, or other
11 physical or mental condition of any person, without having at
12 the time of so doing a valid, unrevoked, or unsuspended
13 certificate as provided in the Medical Practice Act, or without
14 being authorized to perform such act pursuant to a certificate
15 obtained in accordance with some other provision of law, is
16 guilty of a misdemeanor.

17 8. Respondent's physician's assistant certificate is
18 subject to suspension or revocation pursuant to the provisions
19 of section 3527, subdivision (a), of the code in that respondent
20 has been convicted of a crime substantially related to the
21 qualifications, functions, or duties of a physician's assistant
22 in violation of sections 490, 2236, and 3531 of the code. The
23 circumstances are as follows:

24 On or about March 21, 1983, respondent pled guilty
25 to violation of Business and Professions Code section
26 2052 in an action entitled, People of the State of
27

1 California vs. Benjamin Franklin Henderson, Case
2 Number A-623901.

3 9. Respondent's physician's assistant certificate
4 is further and separately subject to suspension or revocation
5 pursuant to the provisions of section 3527, subdivision (a), of
6 the code in that he violated the provisions of section 2050 of
7 the code. The circumstances are as follows:

8 A. The allegations set forth in paragraph 7 are
9 incorporated herein as if set forth in full.

10 B. On or about May 18, 1982, an undercover
11 operator, acting pursuant to authority by the Bureau of
12 Narcotic Enforcement of the California Department of
13 Justice went to the G & M Medical Group Clinic, located
14 at 1546 East Compton Boulevard, Compton, California, to
15 keep a prearranged appointment. The undercover operator
16 used the assumed name George Wright. At the facility,
17 the undercover operator paid the receptionist \$30, using
18 state funds. Thereafter, the undercover operator had a
19 conversation with a woman at the facility during which
20 time the undercover operator indicated that he was
21 at the facility to "get some prescriptions." The
22 undercover operator gave no medical indication for those
23 prescriptions. Thereafter, the undercover operator met
24 with respondent who identified himself as
25 "Dr. Henderson." After a few minutes of conversation,
26 respondent agreed to provide the undercover operator
27 with prescriptions for Empirin (APC) with Codeine #4 and

1 Valium. In doing so, respondent telephoned G & M
2 Medical Group Pharmacy and entered the prescriptions for
3 the undercover operator.

4 C. After leaving respondent's office, the
5 undercover operator went to the G & M Medical Group
6 Pharmacy and obtained one vial labelled APC #4, 30.
7 Additionally, the undercover operator received a vial
8 labelled Valium, 10 milligrams, 60.

9 D. At no time during the undercover operator's
10 conversation with respondent did respondent conduct a
11 physical examination or consult with his preceptor,
12 Dr. Barnett J. Grier, regarding the medical indication
13 for the drugs prescribed to the undercover operator.
14 Further, at no time during the meeting did respondent
15 have or receive general supervision from Dr. Grier, and
16 accordingly, acted outside the scope of his practice in
17 prescribing the medication for the undercover operator.

18 10. Respondent's physician's assistant certificate is
19 further and separately subject to suspension or revocation
20 pursuant to the provisions of section 3527, subdivision (a), of
21 the code in that he is guilty of violation of section 2242,
22 subdivision (a), of the code by prescribing dangerous drugs
23 without a good faith prior examination and medical indication
24 therefor. The circumstances are as follows:

25 A. The allegations set forth in paragraph 9,
26 subparagraphs B and C, are incorporated herein as if set
27 forth in full.


1 B. During the meeting between the undercover
2 operator and respondent on or about May 18, 1982,
3 respondent made no attempt to conduct a good faith
4 medical examination of the undercover operator, nor did
5 respondent receive or diagnose a medical indication to
6 justify the prescription of APC with Codeine #4 or
7 Valium.

8 WHEREFORE, complainant prays that the committee hold
9 a hearing on the matters alleged herein and, following said
10 hearing, issue a decision:

11 1. Suspending or revoking physician's assistant
12 certificate number PA010100 heretofore issued to
13 Benjamin Franklin Henderson; and

14 2. Taking such other and further action as the
15 committee deems proper.

16 DATED: January 9, 1984

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19 _____
20 RAY E. DALE
21 Executive Officer
22 Physician's Assistant Examining
23 Committee
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